

Summary Support and Paternity Act

Summary and Benefits

Background

When a person receives public assistance for a child, the person assigns all his or her rights to child support to the state, depending on the type of assistance. When there is no child support order, the person must help the Michigan Department of Health and Human Services (MDHHS) establish an order. When there is no public assistance, a person may request MDHHS establish a child support order. In each case, the person (usually the mother) must request IV-D services.

A man is the legal father of a child when the man is married to the mother at the time of a child's birth or conception, or when the father and mother sign an acknowledgment of parentage. A child's parents owe a duty to support their child.¹ That duty to support is enforced in a court proceeding to establish child support. When the father is not married to the mother and does not sign an acknowledgment of parentage, his paternity must first be established before the court can establish child support.

Current Traditional Process

Once a person requests IV-D services or is referred from a public assistance program, a support specialist in the Office of Child Support (OCS) gathers information sufficient to identify the child's father and any other information the support specialist can obtain. The support specialist then sends the information to the establishment office² in the county where the mother and child reside.

The establishment office takes the support specialist's information and prepares a lawsuit to establish either child support or both paternity and child support. The establishment office files the lawsuit and then must serve it on the parent being sued.

The parent being sued has to answer the lawsuit within the time allowed by Michigan Court Rules. A parent who fails to answer may be defaulted (i.e., treated as admitting the lawsuit), and the establishment office can ask the court to enter an order for paternity and/or support either after a hearing or without a hearing if there is sufficient evidence in the pleadings or in an affidavit.

If the parent is defaulted, the establishment office may know how much money the parent makes and may be able to ask the court to enter a support amount. If not, the order establishing the duty of support will enter and the issue of support may be established based on best information available or may be sent to the friend of the court for a support review.

¹ *Paulson v Paulson*, 254 Mich App 568, 571 (2002).

² Traditionally, the prosecuting attorney (PA) handles establishment tasks; however, statutory amendments that became effective in 2015 allow the PA and MDHHS to agree to transfer the PA's responsibilities to the FOC if approved by the chief judge of the circuit court. Alternatively, the PA and MDHHS can agree to transfer these responsibilities to an attorney employed by or under contract with MDHHS.

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When the case is a paternity case and the father answers the complaint, he will almost always agree to genetic testing or the court will order genetic testing. If a man has genetic tests and the tests show a 99% or better probability of his paternity, the man is established to be the father.

When the tests show a 99% or better probability of paternity and the man does not agree to sign an acknowledgment of parentage, the establishment office will make a motion asking the court to enter an order establishing the father's paternity. Courts rarely deny this motion. The court relies on genetics to establish the father's paternity and the motion is simply the means to get the genetic tests before the court.

After paternity is established, the establishment office will attempt to have the parties agree to a support amount. Alternatively, if the establishment office has good income information, the establishment office may either present an order for entry if there has been a default or move the court to enter a support order. If the establishment office does not have good income information, the support issue may be referred to the friend of the court.

For support cases, the establishment office sets the case for a hearing to enter a support order unless the parties agree to an amount, or the order may ask the friend of the court to review the support amount. If the person defaults, the establishment office can present an order for entry as part of the default process that will enter unless an objection is filed; when this occurs, the order enters without a hearing.

SSPA Process

The Summary Support and Paternity Act eliminates obsolete tasks and streamlines proceedings.

Here are the main changes:

1. The case does not necessarily have to be filed by the establishment office. The case can be filed by any IV-D agency and could even be filed directly through an interface between the courts and the support specialists. However, the Act requires the agreement of the entity responsible for establishment services and OCS to change the agency providing services under the Act. Although a case is still filed, the filing is for purposes of maintaining an order and for future custody and parenting time issues that the court may have to decide.

2. The case is less adversarial. Although there would still be a plaintiff and defendant (current case management systems would have to be redesigned to do otherwise and that could occur in the future without a change in the law), the paperwork is less formal and does not create a lawsuit so much as a file in which all future proceedings happen.

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3. In paternity cases, court proceedings are virtually eliminated. There would still be defaults if a person fails to answer. But, the court is permitted to enter orders without hearing in the event of a default or when the IV-D agency submits a proposed support amount and neither party objects to the amount. This shortens the time for establishing paternity and eliminates extra steps in the process that are now obsolete.

4. In all cases, child support is set by agreement or by an informal process that the Legislature approved for modifying support a few years ago. Under that process, the IV-D agency calculates support using available information and sends out a recommendation that becomes an order unless a party objects. If a party objects, the party has a right to a hearing. In current cases, parties rarely object to the proposed amount and it really is not necessary to have a court hearing.

5. The Act authorizes the child support program to become more efficient by providing for regionalization, interagency cooperation, and the use of new technologies to implement the Act when they are appropriate.

6. The Act allows the child support program to file consents at the time the case is filed instead of filing a case first and then entering into a consent order.